



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
 Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0123
 For: Violation of Section 3(e),
 Republic Act No. 3019

- versus -

Present:

VALDEMAR MENDIOLA CHIONG,
Accused.

FERNANDEZ, SJ, J.
Chairperson
MIRANDA, J., and
VIVERO, J.

Promulgated:

DEC 13 2018

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the *Motion for Leave of Court to File Demurrer to Evidence*¹ filed by accused Valdemar M. Chiong; together with the *Comment/Opposition Re: Motion for Leave of Court to File Demurrer to Evidence*)² filed by the prosecution.

Accused Chiong claims that the prosecution failed to establish its case; there is no sufficient evidence to convict him beyond reasonable doubt.³ Accused Chiong argues:

- a. The prosecution presented only four (4) witnesses—

FO1 Armand James T. Serenco,
 Chief, Admin Non Commissioned Officer (NCO),
 Bureau of Fire Protection, City of Naga, Cebu;

Anna Maria B. Gabilan,
 Treasurer, City of Naga, Cebu;

¹ Dated November 21, 2018; filed on November 21, 2018; Record, pp. 350-352.
² Dated November 22, 2018; filed on November 23, 2018; Record, pp. 353-357.
³ Motion for Leave dated November 21, 2018, p. 1.

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Minnie C. Abangan,
Senior Administrative Assistant I,
Office of the Mayor, City of Naga, Cebu; and,

Ma. Fe Lourdes M. Liadones
Chief, Records Section,
Department of the Interior and Local Government;

- b. The prosecution did not offer in evidence the judicial affidavit of FO1 Armand James T. Serenco. Said witness brought with him the documents to prove that a valid Fire Safety Inspection Certificate (FSIC) was issued to Petronas Energy Philippines, Inc. by the Bureau of Fire Protection, City of Naga, Cebu, when the questioned Mayor's Permit RO1-484-2014 was issued by the accused on April 7, 2014; and,
- c. The prosecution also did not offer in evidence the judicial affidavit of Minnie C. Abangan because part of her statement established the regularity of the issuance of the questioned Mayor's Permit RO1-484-2014.⁴

On the other hand, the prosecution contends that it presented competent evidence to sustain the Information and to support a guilty verdict.⁵ Thus:

- a. The first element of violation of Republic Act No. 3019 is not disputed since the same was stipulated by the parties during the pre-trial;
- b. The second element was sufficiently proved by the presentation of the 2014 Mayor's Permit No. RO1-484-2014 dated April 7, 2014 (Exhibit H). The parties stipulated on the authenticity, due execution and existence of said document during the September 19, 2018 hearing. The subject permit established that accused Chiong acted with evident bad faith, manifest partiality, or gross inexcusable negligence when he approved the issuance of Mayor's Permit No. RO1-484-2014 to Petronas despite the lack and non-submission of the required Fire Safety Inspection Certificate (FSIC), as clearly reflected in the issued permit. The issuance of Mayor's Permit No. RO1-484-2014 failed to comply with existing and accepted guidelines on the matter.⁶
- c. The third element was, likewise, sufficiently proved. Accused Chiong's approval of the issuance of Mayor's Permit No. RO1-484-2014 to Petronas despite the latter's failure to comply with the required submission of FSIC caused undue injury to the government and gave privilege, and unwarranted benefits to Petronas.⁷


⁴ Motion for Leave dated November 21, 2018, pp. 1-2.

⁵ Consolidated Comment/Opposition dated October 3, 2018, p. 4.

⁶ Comment/Opposition dated November 22, 2018, p. 3.

⁷ Comment/Opposition dated November 22, 2018, p. 3.

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RULING

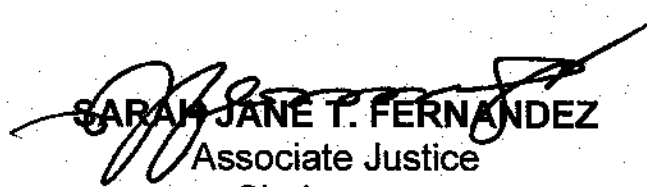
After a careful study of the documentary and testimonial evidence presented by the prosecution, the Court finds that, if unrebutted, the same is sufficient to support a verdict of guilt against accused Valdemar M. Chiong for violation of Section 3(e) of Republic Act No. 3019. The Court hereby ***DENIES*** the *Motion for Leave of Court to File Demurrer to Evidence* filed by accused Chiong.

This is without prejudice to the filing by accused Chiong of a *Demurrer to Evidence* without prior leave of court, but subject to the legal consequence provided under *Section 23, Rule 119 of the Revised Rules of Criminal Procedure*, that is, he shall waive his right to present evidence and is submitting this case for judgment on the basis of the evidence adduced by the prosecution.

Accused Chiong is given a period of five (5) days from receipt of this Resolution within which to file, by personal filing and service, or through courier, his *Manifestation* to inform this Court whether he will file a *Demurrer to Evidence*, without leave of court.

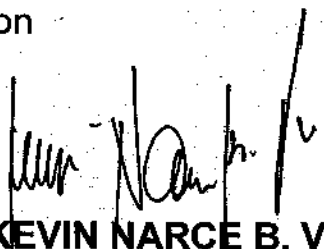
The hearings set for the accused to present his evidence on January 16, 23, and 24, 2019, all at 1:30 in the afternoon, are maintained. The said scheduled dates will be considered automatically cancelled upon receipt by the Court of the *Demurrer to Evidence* of accused Chiong.⁸

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

⁸ Pursuant to A.M. No. 15-06-10-SC, Revised Guidelines for Continuous Trial of Criminal Cases